

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JENNA MEAGHER and ROBIN  
SATTERLEE,

Plaintiffs,

v.

UNITED STATES OF AMERICA and  
ALBERT NEWMAN,

Defendants.

No. 1:20-cv-00035-NONE-SKO

ORDER DIRECTING THE CLERK TO  
TERMINATE DEFENDANT ALBERT  
NEWMAN

(Doc. 10)

On September 4, 2020, Plaintiffs filed a Voluntary Dismissal of Defendants Albert Newman and Does 1 through 25<sup>1</sup>, on grounds that Defendant United States of America is the only proper defendant in the action, which is brought under the Federal Tort Claims Act. (*See* Doc. 10.)

In relevant part, Rule 41(a)(1)(A) provides as follows:

[A] plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.

Fed. R. Civ. P. 41(a)(1)(A). “The plaintiff may dismiss some or all of the defendants, or some or

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<sup>1</sup> Plaintiff’s notice of voluntary dismissal is erroneously docketed as a motion to dismiss.

1 all of [their] claims, through a Rule 41(a)(1) notice,” and the dismissal “automatically terminates  
2 the action as to the defendants who are the subjects of the notice.” *Wilson v. City of San Jose*,  
3 111 F.3d 688, 692 (9th Cir. 1997).

4 Plaintiffs filed their notice of voluntary dismissal before Defendant Albert Newman served  
5 either an answer or a motion for summary judgment.<sup>2</sup> As such, Plaintiffs have voluntarily  
6 dismissed Defendant Albert Newman and this case has automatically terminated as to that  
7 defendant. Fed. R. Civ. P. 41(a)(1)(A). Accordingly, the Clerk of Court is directed to  
8 TERMINATE Defendant Albert Newman.

9 This case shall remain OPEN pending resolution of Plaintiffs’ case against the remaining  
10 defendant.

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12 IT IS SO ORDERED.

13 Dated: September 8, 2020

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE

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<sup>2</sup> The complaint’s caption does not name any Doe Defendants. (See Doc. 1 at 1.)